

**PROTECO SUPERFUND SITE, PENUELAS, PUERTO RICO  
EPA CERCLA REQUEST FOR INFORMATION  
ATTACHMENT I**

**GENERAL RESPONSE/OBJECTIONS**

Each response by BASF Agrochemical Products BV, Puerto Rico Branch d/b/a/ BASF Agricultural Products de Puerto Rico (hereinafter the "Company") to the Requests shall be subject to the general objections set forth herein, whether or not such objection is incorporated expressly into each response.

1. The Company objects to each of the Requests to the extent that they allege or infer that the Company, arranged for the disposal or treatment of hazardous substances at the PROTECO Superfund Site in Penuelas, Puerto Rico (the "Site") which were released at the Site and caused EPA to expend monies to respond to the release.

2. While it is the Company's objective to respond comprehensively to EPA's information requests, the responses below are based upon, and therefore necessarily limited by, records still in existence and information presently recollected and thus far learned in the course of preparing these responses. The Company acquired Cyanamid Agricultural de Puerto Rico, Inc. nearly nineteen (19) years ago; therefore, the Company's records are necessarily limited. The Company reserves the right to make changes to the response if, at any time, more complete information is discovered. The Company will supplement this response if any additional, responsive information is obtained by its investigation.

3. By responding to these Requests, the Company in no way admits that it arranged for the disposal of hazardous substances which were released at the Site. Moreover, the Company denies that it has any liability for any injury to the Site and reserves and does not waive any and all rights and/or defenses it may have. If it is determined that the Company has any liability for any injury to the Site, a reasonable basis exists for such harm to be apportioned, as set forth in *Burlington Northern & Sante Fe Railway Co. v. United States*, 179 S. Ct. 1879 (2009).

4. The Company objects to these Requests to the extent that they are overly broad, burdensome, not reasonably calculated to lead to information concerning the identification, nature and quantity of hazardous substances, seek information not in the Company's possession or control, and/or seek information concerning the activities of entities unrelated to the Company.

5. In addition to the narrative responses set forth below, the Company provides herewith in response to the Requests documents bates stamped as BAPBV000001 through BAPBV0000024.

**RESPONSES TO THE REQUESTS**

1. *Answer the following questions regarding the Company:*
  - a. *State the correct legal name and mailing address for the Company;*
  - b. *State the name(s) and address(es) of the President, Chief Executive Officer, and the Chairman of the Board (or other presiding officer) of the Company;*
  - c. *Identify the state/commonwealth and date of incorporation of the Company and the name of its agents for service of process in the state/commonwealth of incorporation and in Puerto Rico, if different; and*
  - d. *Identify any successor corporations, predecessor corporations, or other entities related to the Company. If the Company is or was a subsidiary or affiliate of another*

*corporation or entity, identify each of those other entities' Chief Executive Officers, Presidents, and Chairpersons of the Board. Identify the state/commonwealth and date of incorporation and agents for service of process in the state/commonwealth of incorporation and in Puerto Rico, if different, for each entity identified in your response to this question.*

Response:

- a. The correct legal name and mailing address for the Company is as follows:

BASF Agrochemical Products B.V., Puerto Rico Branch  
d/b/a/ BASF Agricultural Products de Puerto Rico  
State Road #2 KM 47.3  
P.O. Box 243  
Manati, PR 00674

- b. The names and addresses of the President, Chief Executive Officer, and the Chairman of the Board (or other presiding officer) of the Company

Ricardo Morales, Site Director  
BASF Agrochemical Products B.V., Puerto Rico Branch  
d/b/a/ BASF Agricultural Products de Puerto Rico  
State Road #2 KM 47.3  
Manati, PR 00674

- c. The state/commonwealth and date of incorporation of the Company and name of its agents for service of process in the state/commonwealth of incorporation and in Puerto Rico, if different, is as follows:

The Company is currently seeking information responsive to this Request. If such information is discovered, the Company will supplement this response within 30 days.

- d. The identify of any successor corporations, predecessor corporations, other entities related to the Company and, if the Company is a subsidiary or affiliate of another corporation or entity, the identify of each of those other entities' Chief Executive Officers, Presidents, and Chairpersons of the Board and the identify the state/commonwealth and date of incorporation and agents for service of process in the state/commonwealth of incorporation and in Puerto Rico, if different, for each entity identified are as follows:

The Company is currently seeking information responsive to this Request. If such information is discovered, the Company will supplement this response within 30 days

2. *State the corporate history of the Company, including all name changes and mergers. List all names under which the Company has operated and has been incorporated. For each other name, provide the following information:*

- a. *Whether that other company or business continues to exist, indicating the date and means by which it ceased operations (e.g. dissolution, bankruptcy, sale) if it is no longer in business;*
- b. *Names, addresses, and telephone numbers of all subsidiaries, unincorporated divisions or operating units, affiliates, and parent corporations if any, of that other company.*

Response: The Company is currently seeking information responsive to this Request. If such information is discovered, the Company will supplement this response within 30 days.

3. *Identify all changes in ownership relating to the Company from its date of incorporation to the present, including the date of any ownership change. If any owner was/is a corporation, identify if the corporation was a subsidiary or division of another corporation. In your identification of any corporation, it is requested that you provide the full corporate name, the state/commonwealth of incorporation, and all fictitious names used/held by that corporation.*

Response: The Company is currently seeking information responsive to this Request. If such information is discovered, the Company will supplement this response within 30 days.

4. *For each owner that is a subsidiary of another corporation identified in your answer to Request #3 above, please provide a chart that details the corporate structure from that other company through all intermediary entities to the ultimate corporate parent. For purposes of this information request, the term "ultimate corporate parent" means the corporate entity that, while owning or controlling the majority of the shares of common stock in a subsidiary corporation, is not primarily owned/controlled by another corporation.*

Response: The Company is currently seeking information responsive to this Request. If such information is discovered, the Company will supplement this response within 30 days.

5. *Describe any asset purchase agreements, whereby some or all of the assets of Cyanamid Agricultural de Puerto Rico, Inc. were ever sold to any other entity, including the date(s) the companies involved, and the terms of such asset purchase agreement(s). Please also provide information and supporting documentation relating to the July 1, 2000 acquisition of Cyanamid Agricultural de Puerto Rico, Inc. by BASF Aktiengesellschaft and the concurrent transfer of Cyanamid Agricultural de Puerto Rico, Inc.'s net assets, liabilities, and intangibles to the Company.*

Response: The Company is currently seeking information responsive to this Request. If such information is discovered, the Company will supplement this response within 30 days.

6. *Indicate whether the Company is the successor to any liabilities, including those under CERCLA, of Cyanamid Agricultural de Puerto Rico, Inc.*

Response: The Company is currently seeking information responsive to this Request. If such information is discovered, the Company will supplement this response within 30 days.

7. *Provide copies of the Company's authority to do business in Puerto Rico. Include all authorizations, withdrawals, suspensions, and reinstatements.*

Response: A copy of the Certificate of Good Standing for BASF Agrochemical Products B.V. (Register No. 11431), dated February 4, 2019, is provided at the above link, in the folder titled "Request No. 7 Documents". See Bates No. BAPBV000001.

8. *State the dates during which the Company owned, operated, or leased any portion of the Facility, and provide copies of all documents evidencing or relating to such ownership, operation, or lease, including but not limited to purchase and sale agreements, deeds, leases, etc.*

Response: Upon information and belief, Cyanamid Agricultural de Puerto Rico, Inc. commenced operation at the Facility in 1976. The Company acquired the Facility and took over operations on or about June 30, 2000. The Company did not lease any portion of the Facility.

9. *Indicate whether the Company has ever operated at a location other than the Facility. If yes, provide the correct names and addresses of the Company's other facilities where the Company carried out its operations.*

Response: The Company has never operated at a location other than the Facility.

10. *Describe in detail the nature of the business and the operations conducted at the Facility and at any locations identified in response to Request #9, above, during the period that the Company operated there. Provide a brief description of the Company's operations at each facility, including the following:*

- a. The date such operations commenced and concluded; and
- b. The types of work performed at each facility, including but not limited to the industrial, chemical, or institutional processes and treatments undertaken at each facility.

Response: The facility has manufactured and/or formulated agrochemicals since 1976. Based upon a diligent search of available records, only seven (7) shipments of the hazardous waste stream at issue (solvent recovery still bottoms with traces of toluene) (aka "Tars") were sent to the Site in 1985.

No records of offsite hazardous waste disposal prior to 1985 could be located. Prior to 1985, certain hazardous wastes, including possibly the Tars, were incinerated onsite in a liquid hazardous waste incinerator. Use of the onsite incinerator was discontinued in September 1982; the hazardous wastes were then shipped offsite for disposal.

From March 1985 to December 1985, seven (7) shipments of Tars were made to the Site (then known as Servicios Carbareon) by Cyanamid Agricultural de Puerto Rico, Inc. Copies of the seven (7) associated hazardous waste manifests are provided at the above link, in the folder titled "Request No. 10 Documents". See Bates Nos. BAPBV000002 through BAPBV0000013.

No one has any recollection of sending the Tars to the Site other than that which is evidenced by the seven (7) hazardous waste manifests provided herein. After December 1985, the Tars were disposed of at 3<sup>rd</sup> party waste management companies not associated with the Site.

11. *Describe how the Company came to possess the hazardous substances that came to be located at the Site.*

Response: The facility purchased toluene from a 3<sup>rd</sup> party supplier and used it as a solvent in its agrochemical manufacturing process. Spent solvent was recovered in an on-site distillation process, recovered toluene was reused in the process, and Tars were shipped off site to permitted waste management firms in accordance with regulatory requirements.

12. *List all hazardous substances used, generated, treated, stored, disposed of, manufactured, recycled, recovered, treated, or otherwise processed during the Company's operations at the Facility.*

Response: The Company objects to this Request as overly broad, burdensome, not reasonably calculated to lead to information concerning the identification, nature and quantity of hazardous substances, seeking information not in the Company's possession or control, and/or seeking information concerning the activities of entities unrelated to the Company. Without waiving objections, a list titled "Cyanamid Agricultural de Puerto Rico, Inc. Waste Streams Shipped to the Site", provided at the above link in the folder titled "Request No. 12 Documents" shows the hazardous wastes shipped to the Site from the Facility. See Bates No. BAPBV0000014.

13. *List and fully describe all waste streams generated from the Company's operations, including solid, liquid, or any other type of waste.*

Response: The Company objects to this Request as overly broad, burdensome, not reasonably calculated to lead to information concerning the identification, nature and quantity of hazardous substances, seeking information not in the Company's possession or control, and/or seeking information concerning the activities of entities unrelated to the Company. Without waiving objections, see list provided in response to Request No. 12 herein (Bates No. BAPBV0000014).

14. *Describe in detail the handling, storage, and disposal practices employed by the Company for each waste stream resulting from the Company's operations.*

Response: The Company objects to this Request as overly broad, burdensome, not reasonably calculated to lead to information concerning the identification, nature and quantity of hazardous substances, seeking information not in the Company's possession or control,

and/or seeking information concerning the activities of entities unrelated to the Company. Without waiving objections, see list provided in response to Request No. 12 herein (Bates No. BAPBV0000014).

15. *Identify all individuals who had responsibility for the Company's environmental and waste management decisions between 1975 and 1999 (e.g., responsibility for decisions regarding the disposal, treatment, storage, recycling, or sale of the Company's hazardous substances, hazardous wastes, and industrial wastes).*
- Provide each such individual's job title, duties, dates performing those duties, supervisors for those duties, current position, and if applicable, the date of the individual's resignation or termination.*
  - Provide the nature of the information possessed by each such individual concerning the Company's waste management.*

Response: The Company objects to this Request as overly broad, burdensome, not reasonably calculated to lead to information concerning the identification, nature and quantity of hazardous substances, seeking information not in the Company's possession or control, and/or seeking information concerning the activities of entities unrelated to the Company. Without waiving objection and upon information and belief, the following individuals may have had some responsibility for Cyanamid Agricultural de Puerto Rico, Inc.'s environmental and waste management decisions related to the Site (in 1985):

Frank Lequerica, Facility Manager (deceased)  
Abel Robles, EHS Manager  
Roberto Aguayo, Technical Manager  
Freida Cruz, Procurement Agent (deceased)

16. *For each type of hazardous substance, hazardous waste, and industrial waste used or generated by the Company, describe the Company's agreements or other arrangements for its disposal, treatment, storage, recycling, or sale.*
- Provide any agreement and document, including waste logs, journals, manifests, or notes, related to any transfer of hazardous substances, hazardous wastes, and industrial wastes from the Company's Facility that came to be located at the Site.*
  - Provide all correspondence and written communications between the Company and each owner/operator of the Site regarding the Company's hazardous substances, hazardous wastes, and industrial wastes that came to be located at the Site.*

Response: The Company objects to this Request as overly broad, burdensome, not reasonably calculated to lead to information concerning the identification, nature and quantity of hazardous substances, seeking information not in the Company's possession or control, and/or seeking information concerning the activities of entities unrelated to the Company. Without waiving objection, see manifests provided in response to Request No. 10 herein (Bates Nos. BAPBV000002 through BAPBV0000013). No records were found of any contracts or correspondences between the Company and the Site.

17. *Provide agreements and documents related to the following, including waste logs, journals, manifests, or notes, as set forth below:*
- The locations where the Company sent each type of hazardous substance,*

- hazardous waste, and industrial waste for disposal, treatment, or recycling;*
- b. List all Waste Transporters used by the Company;*
  - c. For each type of hazardous substance, hazardous waste, and industrial waste, specify which Waste Transporter picked it up;*
  - d. For each type of hazardous substance, hazardous waste, and industrial waste, state how frequently each Waste Transporter picked up such waste;*
  - e. For each type of hazardous substance, hazardous waste, and industrial waste, provide the volume picked up by each Waste Transporter (per week, month, or year);*
  - f. For each type of hazardous substance, hazardous waste, and industrial waste, identify the dates (beginning & ending) such waste was picked up by each Waste Transporter;*
  - g. Indicate the ultimate location for each type of hazardous substance, hazardous waste, and industrial waste. Provide all documents indicating the ultimate disposal/recycling/treatment location for each type of hazardous substance, hazardous waste, and industrial waste;*
  - h. Describe how the Company managed pickups of each hazardous substance, hazardous waste, and industrial waste including but not limited to:*
    - i. The method for inventorying each type of hazardous substance, hazardous waste, and industrial waste;*
    - ii. The method for requesting each type of hazardous substance, hazardous waste, and industrial waste to be picked up;*
    - iii. The identity of the Waste Transporter employee/agent contacted for pickup of each type of hazardous substance, hazardous waste, and industrial waste; and*
    - iv. The amount paid or the rate paid for the pickup of each type of hazardous substance, hazardous waste, and industrial waste;*
  - i. Identify the individual or organization that selected the location where each of the Company's wastes were taken. Describe the basis for and provide any documents supporting the answer to this Request.*

Response: The Company objects to this Request as overly broad, burdensome, not reasonably calculated to lead to information concerning the identification, nature and quantity of hazardous substances, seeking information not in the Company's possession or control, and/or seeking information concerning the activities of entities unrelated to the Company. Without waiving objection and upon information and belief, see response to Request No. 12 for responses to Requests No. 17(a) through (g).

For Request No. 17(h), the Facility would maintain on-site waste inventories and contact waste transporters as needed within regulatory accumulation time frames to arrange shipment of waste to permitted 3<sup>rd</sup> party waste management facilities. No information is available on the individual employee / agent contacted for waste pickups, nor the amount paid and no responsive documents were located.

For Request No. 17(i), no information or responsive documents are available on the individual that selected the location where the facility's wastes were taken.

18. *If not already provided, specify the dates and circumstances when the Company's hazardous substances, hazardous wastes, and/or industrial wastes were sent, brought, or*



*moved to the Site, and identify the names, addresses, and telephone numbers of the person(s) making arrangements for the containers (e.g., 55-gallon drum, dumpster, etc.) holding hazardous substances, hazardous wastes, and/or industrial wastes to be sent, brought, or transported to the Site. Please also provide all documents that support or memorialize the answer to this Request.*

Response: See responses already provided. Further, persons involved with managing waste from the Company to the Site are identified in response to Request No. 15, each of whom were formerly based at the Manati Facility. Current contact information for such persons is unknown.

19. *Identify, describe, and provide all documents that refer or relate to the following:*

- a. The nature, including the chemical content, characteristics, physical state (e.g., solid, liquid), and quantity (volume and weight) of all hazardous substances, hazardous wastes, and industrial wastes involved in each arrangement transferring materials from any facility owned or operated by the Company (including the Facility) to any other facility;*
- b. In general terms, the nature and quantity of the non-hazardous substances involved in each such arrangement;*
- c. The hazardous substances being mixed or combined with other hazardous substances or non-hazardous substances for each such arrangement. Indicate whether such mixing or combining is common in the industry. Indicate whether the Company was ever asked to stop mixing or combining the hazardous substances with the non-hazardous substances;*
- d. Other materials other than the hazardous substances that were involved in the transaction;*
- e. The condition of the transferred material containing hazardous substances when it was stored, disposed of, treated, or transported for disposal or treatment;*
- f. The markings on and type, condition, and number of containers in which the hazardous materials were contained when they were stored, disposed, treated, or transported for disposal or treatment; and*
- g. All tests, analyses, analytical results, and manifests concerning each hazardous substance, hazardous waste, and industrial waste involved in each transaction. Include information regarding who conducted the test and how the test was conducted (batch sampling, representative sampling, splits, composite, etc.).*

Response: The Company objects to this Request as overly broad, burdensome, not reasonably calculated to lead to information concerning the identification, nature and quantity of hazardous substances, seeking information not in the Company's possession or control, and/or seeking information concerning the activities of entities unrelated to the Company. Without waiving objection and upon a diligent search of historical records pertaining to the Request, no responsive information or records were found.

20. *Indicate how long the Company has had a relationship with the owner(s) and/or operator(s) of the Site.*

Response: As stated in response to Request No. 10 above, the Company utilized the Site for disposal of Tars waste from March 1985 to December 1985.



21. *Identify any individuals, including former and current employees, who may be knowledgeable of the Company's operations and practices concerning the handling, storage, and disposal of hazardous substances.*

Response: See response to Request No. 15 above.

22. *Please provide all documents, if not already requested above, that support your responses to Requests #1 - #21, above.*

Response: All responsive documents are provided and referenced within the individual questions.

23. *If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:*

- a. *The Company's document retention policy between 1975 and 2018;*
- b. *A description of how the records were destroyed (burned, trashed, etc.) and the approximate date of destruction;*
- c. *A description of the type of information that would have been contained in the documents;*
- d. *The name, job title, and most current address known by you of the person(s) who would have produced these documents, the person(s) who would have been responsible for the retention of these documents, the person(s) who would have been responsible for the destruction of these documents, and the person(s) who had and/or still may have the originals or copies of these documents; and*
- e. *The names and most current address of any person(s) who may possess documents relevant to this inquiry.*

Response: Other than the Cyanamid Agricultural de Puerto Rico manifests that are provided herein, no other records related to the Company's dealings with the Site were found. It is unknown whether the records were destroyed. As stated above, the Company did not acquire the Facility until 2000 – fifteen (15) years after the Facility shipped the subject hazardous waste to the Site, and well beyond any regulatory retention requirements. A copy of Cyanamid Agricultural de Puerto Rico's Records Retention Policy in effect in 1985, the time during which the hazardous waste was shipped to the Site, is provided at the link above in the folder titled "Request No. 23 Documents". See Bates No. BAPBV0000015 through BAPBV0000024.

24. *Please provide copies of the Company's financial statements, shareholder's reports, financial audits, or other financial reports showing its assets, profits, liabilities, and current financial status for the last five years.*

Response: The Company objects to this Request as overly broad, burdensome, not reasonably calculated to lead to information concerning the identification, nature and quantity of hazardous substances, seeking information not in the Company's possession or control, and/or seeking information concerning the activities of entities unrelated to the Company. The Company is currently seeking information responsive to this Request. If such information is discovered, the Company will supplement this response within 30 days.

25. *List and provide a copy of all agreements or contracts, including but not limited to insurance policies and indemnification agreements, held or entered into by the Company or its parent corporation(s), subsidiary, or subsidiaries that could indemnify it against any liability that it may have under CERCLA for releases or threatened releases of hazardous substances at and from the Facility. In response to this Request, please provide not only those insurance policies and agreements that currently are in effect, but also provide those that were in effect during the period(s) when any hazardous substances, hazardous wastes, and/or industrial wastes may have been released or threatened to be released into the environment at or from the Facility.*

Response: The Company is currently seeking information on any relevant agreements/contracts, and pollution liability insurance policies that were or are in effect. If such information is discovered, the Company will supplement this response within 30 days.

26. *State whether any claim or claims have been made by the Company to any insurance company for any loss or damage related to operation at the Site, and if so, identify each claim by stating the name of the claimant, the name and address of the insurance company, the policy number, the named insured on the policy, claim number, date of claim, amount of claim, the specific loss or damage claimed, the current status of the claim, and the amount, date, and recipient of any payment made on the claim.*

Response: No claims have been made by the Company to any insurance company related to this issue.

27. *If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.*

Response: No other persons (other than those already identified in this submittal) would be able to provide any additional or more detailed information related to this inquiry.

28. *State the name, title, and address of each individual who assisted or was consulted in the preparation of the response to this Request for Information. In addition, state whether this person has personal knowledge of the information in the answers provided.*

Response: The following persons were involved or consulted in preparing responses to this Request for Information. Asterisked names had some involvement with the wastes shipped from the Facility to the Site.

- Tony Germinario, EHS Manager
- Doris Garcia, EHS Team Leader
- Frank Vaello, EHS Specialist
- Ricardo Morales Site Director
- Carlos Pineiro, Controller
- Nicole Sullivan, Senior Counsel, Environmental